



**BILLING CODE: 6750-01-S**

**FEDERAL TRADE COMMISSION**

**Agency Information Collection Activities;**

**Proposed Collection; Comment Request**

**AGENCY:** Federal Trade Commission (FTC or Commission).

**ACTION:** Notice.

**SUMMARY:** The information collection requirements described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act (PRA). The FTC seeks public comments on its proposal to extend through February 28, 2017, the current PRA clearance for information collection requirements contained in its Rule Governing Pre-Sale Availability of Written Warranty Terms. That clearance expires on February 28, 2014.

**DATES:** Comments must be received on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** Interested parties may file a comment online or on paper by following the instructions in the Request for Comments part of the SUPPLEMENTARY INFORMATION section below.

**FOR FURTHER INFORMATION CONTACT:** Requests for copies of the collection of information and supporting documentation should be addressed to Svetlana Gans, Attorney,

Division of Marketing Practices, Bureau of Consumer Protection, Federal Trade Commission,  
Room H-286, 600 Pennsylvania Ave., NW., Washington, DC 20580, (202) 326-3708.

## **SUPPLEMENTARY INFORMATION:**

### *Proposed Information Collection Activities*

Under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501-3520, federal agencies must get OMB approval for each collection of information they conduct, sponsor, or require.

“Collection of information” means agency requests or requirements to submit reports, keep records, or provide information to a third party. 44 U.S.C. 3502(3); 5 CFR 1320.3(c). As required by section 3506(c)(2)(A) of the PRA, the FTC is providing this opportunity for public comment before requesting that OMB extend the existing PRA clearance for the information collection requirements associated with the Commission’s Rule Governing Pre-Sale Availability of Written Warranty Terms, (the Pre-Sale Availability Rule), 16 CFR 702 (OMB Control Number 3084-0112).

The FTC invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond. All comments must be received on or before [insert date 60 days after date of publication in the FEDERAL REGISTER].

The Pre-Sale Availability Rule is one of three rules<sup>1</sup> that the FTC issued as required by the Magnuson Moss Warranty Act, 15 U.S.C. 2301 et seq. (Warranty Act or Act).<sup>2</sup> The Pre-Sale Availability Rule requires sellers and warrantors to make the text of any written warranty on a consumer product costing more than \$15 available to the consumer before sale. Among other things, the Rule requires sellers to make the text of the warranty readily available either by (1) displaying it in close proximity to the product or (2) furnishing it on request and posting signs in prominent locations advising consumers that the warranty is available. The Rule requires warrantors to provide materials to enable sellers to comply with the Rule's requirements and also sets out the methods by which warranty information can be made available before the sale if the product is sold through catalogs, mail order, or door to door sales.

**Pre-Sale Availability Rule Burden Statement:**

Total annual hours burden: 2,446,610.

In its 2010 submission to OMB, FTC staff estimated that the information collection burden of making the disclosures required by the Pre-Sale Availability Rule was approximately 2,490,000 hours per year. Although there has been no change in the Rule's information collection requirements since 2010, staff has adjusted its previous estimate of the number of manufacturers subject to the Rule based on recent Census data. From that, staff now estimates that there are approximately 581 large manufacturers and 13,935 small manufacturers subject to

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<sup>1</sup> The other two rules relate to the information that must appear in a written warranty on a consumer product costing more than \$15 if a warranty is offered and minimum standards for informal dispute settlement mechanisms that are incorporated into a written warranty.

<sup>2</sup> 40 FR 60168 (Dec. 31, 1975).

the Rule. In addition, recent Census data suggests that there are an estimated 6,892 large retailers and 452,553 small retailers impacted by the Rule.

In its 2010 submission to OMB, staff took note that some online retailers had begun to make warranty information directly available on their websites, thereby reducing their paperwork burden under the Rule. As e-commerce continues to grow, it is likely that even more retailers are posting warranty information online than they were in 2010. Nevertheless, because the staff assumes that only a small percentage of retailers would be significantly less burdened by posting warranty information online – namely, retailers with a large Internet presence or whose inventory is mainly composed of warranted products<sup>3</sup> – the staff has retained its previous estimates of the hour burden for retailers. Therefore, staff continues to estimate that large retailers spend an average of 20.8 hours per year and small retailers spend an average 4.8 hours per year to comply with the Rule. Accordingly, the total annual burden for retailers is approximately 2,315,608 hours ((6,892 large retailers x 20.8 burden hours) + (452,553 small retailers x 4.8 burden hours)). Staff also estimates that more manufacturers are beginning to provide retailers with warranty information in electronic form in fulfilling their obligations under the Rule. Therefore, staff has adjusted the hour burden for manufacturers as it did in its previous submission to OMB. Applying a 20% reduction to its previous estimates, the staff now assumes that large manufacturers spend an average of 33.6 hours per year and that small manufacturers spend an average of 8 hours per year to comply with the Rule. Accordingly, the total annual

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<sup>3</sup> In addition, many online retailers also operate “brick-and-mortar” operations and still provide paper copies of warranties for review by customers who do not do business online.

burden incurred by manufacturers is approximately 130,968 hours ((581 large manufacturers x 33.6 hours) + (13,935 small manufacturers x 8 hours)).

Thus, the total annual burden for all covered entities is approximately 2,446,610 hours (2,315,608 hours for retailers + 131,002 hours for manufacturers).

**Total annual labor cost:** \$53,825,000 (rounded to nearest thousand)

The work required to comply with the Pre-Sale Availability Rule entails a mix of clerical work and work performed by sales associates. Staff estimates that half of the total burden hours would likely be performed by sales associates. At the manufacturing level, this work would entail ensuring that the written warranty accompanies every consumer product or that the required warranty information otherwise gets to the retailer. At the retail level, this work would entail ensuring that the written warranty is made available to the consumer prior to sale. The remaining half of the work required to comply with the Pre-Sale Availability Rule is clerical in nature, e.g., shipping or otherwise providing copies of manufacturer warranties to retailers and retailer maintenance of them. Applying a sales associate wage rate of \$25/hour to half of the burden hours and a clerical wage rate of \$19/hour to half of the burden hours, the total annual labor cost burden is approximately \$53,825,420 (1,223,305 hours x \$25 per hour) + (1,223,305 hours x \$19 per hour).<sup>4</sup>

**Total annual capital or other non-labor costs:** De minimis.

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<sup>4</sup> The wage rates used in this Notice reflect recent data from the Bureau of Labor Statistics, Occupational Employment and Wages (May 2015).

The vast majority of retailers and warrantors already have developed systems to provide the information the Rule requires. Compliance by retailers typically entails keeping warranties on file, in binders or otherwise, and posting an inexpensive sign indicating warranty availability. Manufacturer compliance entails providing retailers with a copy of the warranties included with their products.

### *Request for Comments*

You can file a comment online or on paper. Write “Pre-Sale Availability Rule: Paperwork Comment, FTC File No. P044403” on your comment. Your comment -- including your name and your state -- will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Website, at <http://www.ftc.gov/os/publiccomments.shtml>. As a matter of discretion, the Commission tries to remove individuals’ home contact information from comments before placing them on the Commission Website.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, like anyone’s Social Security number, date of birth, driver’s license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, like medical records or other individually identifiable health information. In addition, do not include any “[t]rade secret or any commercial or financial information which is . . . privileged or confidential,” as discussed in Section 6(f) of the FTC Act,

15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c). Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion, grants your request in accordance with the law and the public interest. Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, the Commission encourages you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at <https://ftcpublic.commentworks.com/ftc/presaleavailabilitypra>, by following the instructions on the web-based form. If this Notice appears at <http://www.regulations.gov>, you also may file a comment through that website.

If you file your comment on paper, write “Pre-Sale Availability Rule: Paperwork Comment, FTC File No. P044403” on your comment and on the envelope, and mail or deliver it to the following address: Federal Trade Commission, Office of the Secretary, Room H-113 (Annex J), 600 Pennsylvania Avenue, NW, Washington, DC 20580. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission Website at <http://www.ftc.gov> to read this Notice. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and

responsive public comments that it receives on or before [insert date 60 days after date of publication in the FEDERAL REGISTER]. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at <http://www.ftc.gov/ftc/privacy.htm>.

Christian S. White,  
Deputy General Counsel for Legal Counsel.

[FR Doc. 2013-27307 Filed 11/13/2013 at 8:45 am; Publication Date: 11/14/2013]